



LOBBYING ORDINANCE REVIEW

PERSONS WHO SHOULD REGISTER AS LOBBYISTS - DEFINITIONS FOR DISCUSSION -

The following draft language is not intended to serve as a complete and comprehensive statutory framework, but is instead designed to facilitate a discussion of who should, or should not, register as a lobbyist.

The draft definitions recognize three main types of lobbying entities that would have registration obligations: lobbying firms, lobbyist employers, and expenditure lobbyists. Pursuant to direction received from the Commission at the February meeting, the draft language addresses registration by lobbying firms instead of individual contract lobbyists, and by lobbyist employers instead of by in-house lobbyists. The draft language also provides a \$1 financial threshold for lobbying firms, such that a firm that employs a contract lobbyist would be required to register as soon as any lobbying contract is entered (without regard to number of contacts or activity thresholds). There are two options to consider for lobbying employers (which employ in-house lobbyists): Option A provides a “number of contacts” threshold for registration, while Option B creates a registration threshold based on the size of the businesses. A brief staff analysis of these options follows. Expenditure lobbyists would have a financial threshold in an amount to be determined.

§ 27.4002 Definitions

Contacts mean instances of *direct communication* as described in section 27.xxxx.

Contract lobbyist means any individual who enters into a contract for any amount of monetary or in-kind compensation to engage in *lobbying* activities with any officer or employee of the City on behalf of any other person.

Expenditure lobbyist means any person who makes payments to influence local legislative or administrative action totaling \$____ or more in value within any ____consecutive calendar months.

Influencing a municipal decision means affecting or attempting to affect any action by a *City Official* on one or more *municipal decisions* by any method, including promoting, supporting, opposing or seeking to modify or delay such action. *Influencing a municipal decision* also includes providing information, statistics, analysis or studies to a *City Official*. [SDMC - unchanged]

Lobbying means *direct communication* with a *City Official* for the purpose of *influencing a municipal decision* on behalf of any other *person*. [SDMC-unchanged]

Lobbying firm means any entity that employs one or more *contract lobbyists*.

Lobbyist means any *expenditure lobbyist*, *lobbying firm*, or *lobbyist employer*.

Option A

Lobbyist employer means any business or organization, regardless of whether or not operated for profit, that provides compensation to one or more employees who have a total of ___ separate *contacts* with one or more City Officials within ___ consecutive calendar days [months] for purposes of *lobbying* on behalf of the *lobbyist employer*. Employees of a *lobbyist employer* include, but are not limited to, the owners, officers, and employees of a business or organization.

Option B

Lobbyist employer means any business or organization, regardless of whether or not operated for profit, that provides compensation to one or more employees whose responsibilities include engaging in *lobbying* activities on behalf of the *lobbyist employer*, and that also (a) employs at least ___ officers and employees on a full- or part-time basis; or (b) for its most recent fiscal year had earnings before taxes in an amount of at least \$_____. Employees of a *lobbyist employer* include, but are not limited to, the owners, officers, and employees of a business or organization.

§ 27.4007 Registration Required

Every *lobbyist* is required to register with the City Clerk no later than ten calendar days after qualifying as a *lobbyist*.

STAFF ANALYSIS: “LOBBYING EMPLOYERS” OPTIONS A & B

OPTION A – Contacts Based Threshold

- Pros
 - ✓ Requires registration only from those companies that have a “substantial” number of lobbying contacts with City Officials
 - ✓ Establishes a finite criteria for the threshold
 - ✓ Number of contacts can be independently verified by City Officials who have been “contacted”
 - ✓ Does not require a determination of the amount of compensation received by an employee for lobbying activities
- Cons
 - ✓ May be difficult to agree upon a “substantial” number of contacts
 - ✓ Will require a comprehensive definition of “contacts”

OPTION B – Company Size Threshold

- Pros
 - ✓ Separates large companies from small companies
 - ✓ Does not require a determination of the amount of compensation received by an employee for lobbying activities
- Cons
 - ✓ Would require registration/reporting from a large company with only a single lobbying contact
 - ✓ Would not require registration/reporting from a small company with a substantial amount of lobbying activities
 - ✓ May allow exploitation of a loophole through the creation or use of a subsidiary company, an affiliated company, or a “shell” company that has fewer employees or less revenue than is required to reach the threshold; may be difficult to close all loopholes through drafting
 - ✓ Methodology is inconsistent with the rules applicable to contract lobbyists, who would be required to report working for small businesses that would not be required to report their own in-house lobbyists
 - ✓ Creates an artificial distinction between companies based on their size, not on the amount of lobbying being performed
 - ✓ May be difficult to obtain financial information from companies whose earnings are not a matter of public record.